

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:CORP:B02
PLR-127312-07

Date:
August 28, 2007

In Re:

Legend:

Distributing	=
Sub 1	=
Sub 2	=
Sub 3	=
Sub 4	=
Sub 5	=
Sub 6	=
Sub 7	=
Sub 8	=
LLC1	=
LLC 2	=
LLC 3	=
Business X	=

Market 1 =

Market 2 =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Shareholder 4 =

State A =

L =

Q =

R =

S =

T =

U =

V =

X =

Y =

Z =

Dear :

This is in reply to a letter dated June 8, 2007 requesting rulings as to the federal income tax consequences of a series of proposed transactions. The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an

appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding whether each of the distributions described below: (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see Section 355(a)(1)(B) of the Internal Revenue Code and Treas. Reg. § 1.355-2(d)); and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see Section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

SUMMARY OF FACTS

Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Distributing is primarily a holding company. Distributing has outstanding two classes of Common Stock and one class of Preferred Stock. Shareholder 1 holds Q percent of the outstanding Class A Common Stock, approximately R percent of the outstanding Class B Common Stock, and L percent of the outstanding Preferred Stock. Shareholder 2 owns the remaining S percent of the Class A Common Stock and approximately T percent of the Class B Common Stock. Shareholder 3 owns approximately U percent of the Class B Common Stock, Shareholder 4 owns the remainder of the Class B Common Stock. Prior to the proposed transactions described below, the dividends in arrears on the Preferred Stock will be declared and paid in cash to Shareholder 1.

Distributing owns all of the outstanding stock of Sub 1, a holding company. Sub 1 owns all of the outstanding stock of Sub 2. Sub 2 is directly engaged in Business X in Market 1 and Market 2, and is also engaged, directly and indirectly through its subsidiaries, in Business X in other markets. Sub 2 owns all of the membership interests in LLC 1 a limited liability company, which is treated as a disregarded entity for federal income tax purposes. LLC 1 is directly engaged in Business X in Market 2. Sub 2 also owns all of the stock of Sub 3, Sub 4, Sub 5, Sub 6 (which owns all of the stock of Sub 7 and Sub 8), and all of the membership interests in LLC 2 and LLC 3.

In connection with the proposed transactions, Distributing will form Controlled, which will have one class of common stock and will be wholly owned by Distributing.

Sub 2 has outstanding debt of \$Y. In connection with the proposed transactions, Distributing anticipates exchanging (the "Debt Exchange") the Controlled Securities (as defined herein) for the portion of debt of Sub 2 (the "Sub 2 Exchange Debt") that will be

acquired by a group of investment banks (the “Investment Banks”) in the secondary market.

Financial information has been received indicating that Business X in Market 1 (as conducted directly by Sub 2) and Business X in Market 2 (as currently conducted directly by Sub 2 through LLC 1 and that will be conducted directly by Controlled) each has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

PROPOSED TRANSACTIONS

For what are represented to be valid business purposes, Distributing has proposed the following series of transactions (the “Proposed Transactions”):

- (1) Sub 1 will convert from a corporation to a single member LLC which will be a disregarded entity for federal income tax purposes.
- (2) Sub 2 will convert from a corporation to a single member LLC which will be a disregarded entity for federal income tax purposes. As a result, Distributing will be treated as assuming the Sub 2 Exchange Debt for federal income tax purposes.
- (3) Distributing will form and wholly own Controlled.
- (4) Distributing will contribute to Controlled (the “Contribution”) all of the stock that Distributing owns in Sub 4 and Sub 6 (which holds all the stock of Sub 7 and Sub 8) and all of the LLC interests in LLC 1 and LLC 2 (collectively, such assets are referred to as the “Contributed Subs”) for Controlled Common Stock and debt securities to be issued by Controlled with a total face amount of approximately \$V (the “Controlled Securities”) that will consist of senior unsecured notes.
- (5) All of the Controlled Common Stock will be distributed in the following manner (the “Distribution”):
 - i. Distributing will offer to exchange shares of Controlled Common Stock for shares of Distributing Preferred Stock. It is anticipated that Shareholder 1, the owner of all of the Distributing Preferred Stock, will surrender some, but not all of his shares of Distributing Preferred Stock in exchange for shares of Controlled Common Stock that have a value approximately equal to the value of the Distributing Preferred Stock exchanged therefor. The precise number of shares of Controlled Common Stock exchanged for the Distributing Preferred Stock has not yet been determined.

- ii. Distributing will then distribute all of the remaining shares of Controlled Common Stock on a pro rata basis among the holders of Distributing Class A Common Stock and Distributing Class B Common Stock held by a stockholder.
- (6) In the Debt Exchange, Distributing will transfer all of the Controlled Securities received by it in the Contribution to the Investment Banks in exchange for the Sub 2 Exchange Debt, which the Investment Banks, acting as principals for their own accounts, will have acquired in the secondary market at least X days prior to the Distribution. Distributing expects to consummate the Debt Exchange in accordance with an exchange agreement entered into by it and the Investment Banks no sooner than Z days after the Investment Banks acquire the Sub 2 Exchange Debt in the secondary market, pursuant to which the parties will agree to exchange an amount of Sub 2 Exchange Debt to be determined by the parties bargaining at arm's length for the Controlled Securities received by Distributing in Contribution.

Representations

(a) Other than the Controlled Securities to be held by Distributing prior to their distribution to the Investment Banks, indebtedness, if any, owed by Controlled to Distributing after the Distribution will be on commercially reasonable terms and will not be stock or securities.

(b) The fair market value of the Controlled Common Stock to be received by each holder of the Distributing Preferred Stock will be approximately equal to the aggregate fair market value of the Distributing Preferred Stock surrendered in the Distribution.

(c) No part of the consideration to be distributed by Distributing will be received by the stockholders as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(d) No part of the consideration to be distributed by Distributing will be received by a security holder as an employee or in any capacity other than that of a security holder of Distributing.

(e) The five years of financial information submitted with respect to Business X conducted by Sub 2 in Market 1 is representative of the present operation of Business X in Market 1, and there have been no substantial operational changes since the date of the last financial statements submitted.

(f) The five years of financial information submitted with respect to Business X conducted by LLC 1 (and to be conducted by Controlled) in Market 2 is representative of the present operation of Business X in Market 2, and there have been no substantial operational changes since the date of the last financial statements submitted.

(g) Following the Distribution, Distributing and Controlled will each continue the active conduct of its respective business, independently and with separate employees.

(h) The Distribution is being carried out for the following corporate business purposes: (1) to optimize the capital structures for each of Distributing and Controlled and to increase the financial flexibility of Distributing and Controlled; and (2) to enhance the ability of Controlled to execute a potential acquisition strategy more effectively by creating a more attractive acquisition currency. The Distribution is motivated, in whole or substantial part, by one or more of these corporate business purposes.

(i) The Distribution is not used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.

(j) For purposes of Section 355(d), immediately after the Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the five-year period (determined after applying Section 355(d)(6)) ending on the date of the Distribution.

(k) For purposes of Section 355(d), immediately after the Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled Common Stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled Common Stock, that was either (1) acquired by purchase (as defined in Section 355(d)(5) and (8)) during the five-year period (determined after applying Section 355(d)(6)) ending on the date of the Distribution or (2) attributable to distributions on Distributing stock that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the five-year period (determined after applying Section 355(d)(6)) ending on the date of the Distribution.

(l) The total adjusted bases and the fair market values of the assets that Distributing will transfer to Controlled in the Contribution will equal or exceed the sum of (i) the amount of any liabilities assumed (within the meaning of Section 357(d)) by Controlled in the exchange and (ii) the amount of any liabilities owed to Controlled by Distributing (if any) that are discharged or extinguished, and (iii) the amount of any cash and the fair market value of any property (other than stock and securities permitted

to be received under Section 361(a) without the recognition of gain) received by Distributing from Controlled in the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the contribution.

(m) Any liabilities assumed (within the meaning of Section 357(d)) by Controlled in the transactions were incurred in the ordinary course of business and are associated with the assets being transferred.

(n) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Distribution.

(o) No intercorporate debt will exist between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) at the time of, or subsequent to, the Distribution, except for the Controlled Securities to be issued to Distributing in the Contribution and exchanged with the Investment Banks in the Debt Exchange and payables arising under transitional agreements or otherwise in the ordinary course of business.

(p) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect, Treas. Reg. §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect, Treas. Reg. § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account, if any, with respect to the Controlled Common Stock (or the excess loss account that a member may have in the stock of another member that is required to be taken into account by Treas. Reg. § 1.1502-19) will be included in income immediately before the Distribution (see Treas. Reg. § 1.1502-19)).

(q) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(r) No two parties to the transaction are investment companies as defined in Section 368(a)(2)(F)(iii) and (iv).

(s) The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of Section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of such corporation).

(t) The Controlled Securities issued to Distributing in the Contribution will qualify as "securities" within the meaning of Section 361(a).

(u) Immediately after the Distribution and the Debt Exchange, neither Distributing nor Controlled will be a “disqualified investment corporation” as defined in Section 355(g)(2)(A).

(v) The Distribution is not pursuant to a transaction described in the transition rules of Section 355(b)(3)(C).

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows:

(1) The Contribution and the Distribution, taken together, will qualify as a reorganization within the meaning of Section 368(a)(1)(D). Distributing and Controlled will each be “a party to a reorganization” under Section 368(b);

(2) No gain or loss will be recognized by Distributing on its receipt of Controlled Common Stock and Controlled Securities in the Contribution. Sections 361(a) and 357(a);

(3) Distributing will not recognize any income, gain, loss or deduction with respect to the Controlled Securities and the Debt Exchange other than any (i) deductions attributable to the fact that Sub 2 Exchange Debt may be redeemed at a premium, (ii) interest expense accrued with respect to Sub 2 Exchange Debt, and (iii) income or gain realized on the transfer of the Controlled Securities in the Debt Exchange attributable to appreciation in the Controlled Securities while held by Distributing following the Distribution. Section 361(c);

(4) No gain or loss will be recognized by Controlled in the Contribution. Section 1032(a);

(5) Controlled’s basis in each asset received from Distributing in the Contribution will equal the basis of that asset in the hands of Distributing immediately before the Contribution. Section 362(b);

(6) Controlled’s holding period for each asset received from Distributing in the Contribution will include the holding period during which Distributing held that asset. Section 1223(2);

(7) No gain or loss will be recognized by Distributing in the Distribution. Section 361(c);

(8) No gain or loss will be recognized by (and no amount will otherwise be included in the income of) the stockholders of Distributing upon the receipt of Controlled Common Stock. Section 355(a)(1).

(9) The aggregate basis of the Distributing Stock and the Controlled Common Stock held by the stockholders of Distributing immediately after the Distribution will equal the aggregate basis of each such stockholder's Distributing Stock immediately before the Distribution, allocated between the Distributing Stock and the Controlled Common Stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(a)(1) and (b).

(10) The holding period of each share of Controlled Common Stock received in the Distribution will include the holding period of the shares of Distributing Stock with respect to which the Distribution is made, provided that each stockholder holds such Distributing Stock as a capital asset on the date of the Distribution. Section 1223(1).

(11) Distributing's earnings and profits will be allocated between Distributing and Controlled in accordance with Section 312(h) and Treas. Reg. § 1.312-10(a). Distributing and Controlled will adjust their earnings and profits in accordance with Treas. Reg. § 1.1502-33(e) and (f)(2).

CAVEATS

No opinion is expressed about the tax treatment of the Proposed Transactions under other provisions of the Code or regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

- (i) Whether the Distribution satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether the Distribution is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see Section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether the Distribution, and an acquisition or acquisitions, are part of a plan (or series of related transactions) under Section 355(e)(2)(A)(ii); and
- (iv) The federal tax treatment of the conversions of Sub 1 and Sub 2, respectively, from a corporation to a limited liability company.

PROCEDURAL MATTERS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Gerald B. Fleming
Senior Technician Reviewer
Office of Associate Chief Counsel
(Corporate)